
OLR Bill Analysis

sSB 36

AN ACT CONCERNING REVISIONS TO THE STATE CODES OF ETHICS.

SUMMARY:

This bill makes several changes to the State Codes of Ethics for Public Officials and Lobbyists. It expands the codes' exemption for gifts to the state to include goods or services that support participation by a public official or a state employee at an event that furthers a state or quasi-public agency function.

With respect to the Citizen's Ethics Advisory Board (CEAB), the bill (1) expands the board's administration and enforcement of the code, (2) rearranges board members' staggered terms of office, and (3) allows people who sought or held positions as justices of the peace and notaries public to serve on the board. It narrows the restriction on political contributions by board members and Office of State Ethics (OSE) employees but prohibits them from otherwise participating in the political campaign of a candidate for state public office. It requires board members to certify in writing that they are aware of (1) the qualifications for board members and (2) provisions in the code of ethics for board members.

The bill also requires specific intent before a public official or state employee may be found in violation of the Code of Ethics for counseling, authorizing, or otherwise sanctioning actions that the code prohibits. It expands the grounds for contractor disqualification by the State Contracting Standards Board (SCSB) and makes contractors, consultants, and certain other people liable for damages if they violate the law on unethical bidding or contracting practices to advance their own financial interests.

The bill raises the income and expenditure thresholds that require a

person to register as a lobbyist and requires people to register if lobbying is within the scope of their employment, rather than incidental to regular employment as under current law.

Lastly, the bill (1) revises certain financial and OSE reporting requirements, (2) requires OSE to enforce the revolving door provisions applicable to former Gaming Policy Board members, (3) exempts OSE attorneys from paying court fees when acting in their official capacity, and (4) makes technical and conforming changes.

EFFECTIVE DATE: October 1, 2012; except that (1) provisions relating to CEAB member terms, filing statements of financial interest, payment of court fees by OSE attorneys, and certain technical changes are effective upon passage and (2) the change to gifts to the state in the code of ethics for public officials and other technical changes are effective July 1, 2012.

§§ 1, 2, 15 — GIFTS TO THE STATE

The bill expands the State Codes of Ethics' exemption for gifts to the state to include goods or services that support participation by a public official or state employee at an event that facilitates a state or quasi-public agency's action or function. Under current law, a state or quasi-public agency may accept goods or services (1) for use on agency property or that support an event and (2) that facilitate agency actions or functions. By law, lobbyists and people seeking to do or doing business with the state generally cannot give gifts to public officials and state employees.

Before accepting the good or service, an employee or official's agency head, or in the absence of an agency head, the employee or official, must electronically certify to OSE that it facilitates state action or functions.

The bill has different effective dates for this provision. In the Code of Ethics for Public Officials, this change is effective July 1, 2012. However, the corresponding change in the Code of Ethics for Lobbyists is not effective until October 1, 2012. Thus, for three months,

public officials would be allowed to accept goods or services that support participation at an event, but no lobbyist would be allowed to give them.

CITIZEN'S ETHICS ADVISORY BOARD

§§ 3, 4 — *Terms and Composition*

By law, the board and OSE staff are responsible for enforcing the codes, including advising those subject to it. The bill staggers the nine board members' terms of office in a way that prevents more than three terms from expiring in a single year. By law, each board member is appointed to one four-year term. Under current law, once every four years, four members' terms expire. Under the bill, two members appointed to terms that began on October 1, 2009 will serve one five-year term, and subsequent appointments to those positions are for four years. The result of this re-staggering is that, in any four-year period, the board will have three years with two vacancies to fill and one year with three vacancies to fill (see Table 1). The bill also allows board members to continue serving past the end of their terms to finish adjudicating a case.

Table 1: CEAB Member Term Expiration Dates

<i>Term Expiration Date</i>	<i>Number of Terms Expiring</i>	
	<i>Current Law</i>	<i>The Bill</i>
September 30, 2012	2	2
September 30, 2013	4	2
September 30, 2014	0	2
September 30, 2015	3	3

The bill allows people who sought or held positions as justices of the peace and notaries public to serve on the board by excluding these offices from the Code of Ethics' definition of "public office." By law, board members and OSE employees may not (1) hold or campaign for public office or have held or campaigned for public office in the three years prior to appointment; (2) hold office in a political party or committee; or (3) be a registered lobbyist or member of a lobbying

organization.

§ 6 — *Political Campaign Participation*

Current law prohibits CEAB members and OSE employees from making political contributions to any person whom the State Code of Ethics covers. Under the code, “person” means an individual, sole proprietorship, trust, corporation, limited liability company, union, association, firm, partnership, club, or other organization or group of persons (CGS § 1-79 (i)). The bill narrows the restriction on political contributions by CEAB members and OSE employees to include only public officials, state employees, and candidates for public office whom the code covers.

The bill also prohibits CEAB members and OSE employees from otherwise participating in the political campaign of a candidate for a public office that is subject to the State Code of Ethics. Under the bill, participation in a political campaign includes:

1. publicly endorsing or opposing a candidate;
2. organizing, selling tickets to, promoting or actively participating in a fundraising affair for a candidate, political party, or political committee;
3. directly or indirectly soliciting, receiving, collecting, handling, disbursing, or accounting for contributions or other funds for a political campaign or a candidate for public office;
4. soliciting votes in support of or in opposition to a candidate on behalf of a political campaign or a candidate for public office; and
5. providing any other compensated or uncompensated services for the political campaign of any candidate for public office.

§§ 8, 17 — *CEAB Authority*

The bill authorizes CEAB to administer and enforce all parts of the code by giving it explicit authority to issue advisory opinions on

miscellaneous lobbyist provisions (Part III of the code) and ethical considerations concerning bidding and state contracts (Part IV of the code).

§ 13 — ETHICS CODE VIOLATIONS

Specific Intent Required

The bill requires an intentional act before a public official or state employee may be found in violation of the Code of Ethics for counseling, authorizing, or otherwise sanctioning actions that the code prohibits. It accomplishes this by specifying that a violation occurs only when these officials or employees act “knowingly.” By law, people who intentionally violate the code are guilty of a class A misdemeanor, punishable by up to one year in prison, a fine of up to \$2,000, or both, for a first violation (or a class D felony if the violator derived a financial benefit of at least \$1,000 from the violation) and a class D felony for two or more violations. A class D felony is punishable by up to five years in prison, a fine of up to \$5,000, or both.

STATE CONTRACTORS AND CONSULTANTS

§ 14 — *Penalties for Violations*

The bill makes state contractors and potential state contractors liable to the state for damages if they:

1. solicit undisclosed information for their competitive advantage;
2. intentionally or recklessly charge the state or a quasi-public agency for unperformed work or undelivered goods;
3. intentionally try to circumvent competitive bidding or ethics laws;
4. intentionally provide, or get others to provide, goods or services in order to unduly influence the award of a state contract; or
5. when serving as a consultant on a contract, act as a consultant for anyone bidding on that contract.

Under the bill, damages will equal the amount of the financial

advantage. Additionally, the bill requires OSE to immediately inform the attorney general of the violation.

The bill subjects state consultants and independent contractors to the same penalty if they benefit financially from (1) abusing their contractual authority, (2) accepting another state contract that impairs their judgment on the first contract, or (3) accepting anything of value on the understanding that a person acting on the state's behalf would be influenced. Lastly, it subjects to the same penalty anyone who gives anything of value to a state consultant or independent contractor with the understanding that the consultant or contractor, on behalf of the state, would be influenced.

§ 27 — Contractor Disqualification

The bill authorizes the SCSB to disqualify a contractor who is deemed a nonresponsible bidder (a contractor or potential contractor who commits the acts listed under § 14 above) under the Code of Ethics. By law, SCSB can disqualify a contractor from bidding on, applying for, or participating as a contractor or subcontractor on a state contract for up to five years. Currently, the board may disqualify a contractor for any cause or conduct it determines to be a serious and compelling showing of the contractor's irresponsibility.

§§ 15, 18-20 — LOBBYIST REGISTRATION

The bill increases, from \$2,000 to \$3,000, the income and expenditure thresholds that require a person to register as a lobbyist with OSE. Under current law, a person must register with OSE if he or she receives, spends, or agrees to receive or spend at least \$2,000 in a calendar year to lobby. Similarly, the bill requires registered lobbyists to include with their biennial registration the names and addresses of everyone who contributes \$3,000, rather than \$2,000, to their lobbying activities.

The bill potentially limits the number of people required to register as lobbyists by specifying that, in addition to people who act as full-time lobbyists, a person who meets the income and expenditure thresholds must register if lobbying is within the scope of his or her

employment, not simply incidental to regular employment as current law requires. Additionally, the bill (1) requires anyone who lobbies within the scope of employment to maintain a record of his or her time lobbying and related expenditures and (2) allows OSE to adopt regulations establishing guidelines for determining when lobbying is within the scope of a person's regular employment. At a minimum, the regulations must address the distinction between a person who lobbies at the specific direction of his or her employer and a person who is not specifically directed to lobby by his or her employer.

OTHER PROVISIONS

§§ 8, 10, 29 — Reporting Requirements

The bill (1) requires OSE to submit its annual activity report to the governor two months earlier, by February 15 rather than April 15 each year; (2) allows public officials and employees who must file a statement of financial interests to do so on the first business day after May 1 if May 1 falls on a weekend or legal holiday; and (3) requires the Public Utilities Regulatory Authority commissioners to file their statements of financial interests with OSE instead of a financial disclosure statement with the secretary of the state.

§ 28 — Revolving Door Provisions

The bill requires OSE to enforce the existing law's revolving door provisions (see BACKGROUND) applicable to former Gaming Policy Board members. By law, Gaming Policy Board members cannot accept employment for two years after leaving the board with a business that the board regulates.

The office must handle complaints alleging these revolving door violations similar to the way it handles other complaints it receives. This means that:

1. OSE must investigate the complaints and treat them confidentially until probable cause is found;
2. if probable cause is found, the finding must be made public and a judge trial referee must preside over a hearing; and

3. if CEAB finds a violation, it can impose a civil penalty of up to \$10,000 per violation and, if necessary, refer the finding to the chief state's attorney.

BACKGROUND

Revolving Door

The Code of Ethics for Public Officials contains several revolving door provisions by which executive and quasi-public agency officials and employees must abide when they leave state service. Generally, it prohibits them from:

1. representing anyone, other than the state, concerning any matter in which (a) they personally and substantially participated while in state service and (b) the state has a substantial interest;
2. representing anyone for one year after state service, other than the state, for compensation before the agency in which he or she served concerning any matter in which the state has a substantial interest; and
3. accepting employment for one year after service with a state contractor that has a contract valued at \$50,000 or more if they supervised or had a substantial role in negotiating or awarding the contract.

The code also prohibits certain former public officials and state employees who held positions with significant decision-making or supervisory responsibilities from seeking or accepting employment for one year after leaving state service with a business subject to regulation by their former agency.

COMMITTEE ACTION

Government Administration and Elections Committee

Joint Favorable Substitute

Yea 13 Nay 1 (03/02/2012)